

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: May 13, 2009

Signature: *Diane P. Tso*
(Diane P. Tso)

Docket No.: REGIM 3.3-091
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

in re Patent Application of:
Romeuf et al.

Application No.: 10/575,218

Group Art Unit: 1643

Filed: February 20, 2007

Examiner: A. Gussow

For: NOVEL IgG3 ANTIBODIES FOR
STIMULATING PHAGOCYTOSIS

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

This communication is in response to the Office Action mailed November 18, 2008, setting forth a Restriction Requirement in the above-identified application.

In the Office Action, the Examiner required restriction to one of the following inventions under 35 U.S.C. §§121 and 372:

I. Claims 1 in part, 2-6, 8-15, and 20, drawn to a method of treating cancer.

II. Claims 1 in part, 2, 3, 7-10, and 20, drawn to a method of treating infectious pathology.

III. Claims 16 and 17, drawn to a method for modulating the release of cytokines.

IV. Claims 18-19 and 21, drawn to a pharmaceutical composition.

In response, Applicants hereby elect the invention of Group I, corresponding to claims 1 in part, 2-6, 8-15, and 20, drawn to a method of treating cancer. Applicants herein reserve the right to file one or more divisional applications corresponding to the non-elected claims.

The above-identified election is made with traverse. In this case, the Examiner alleges the common technical feature among Groups I-IV is administration of an IgG3 monoclonal antibody produced in a YB2/0 cell line which is disclosed in the prior art (Beliard et al., US PG PUB 2003/0175969). Applicants respectfully disagree with the Examiner's allegations and submit that use of the antibodies as claimed in the instant application is not disclosed in the prior art cited by the Examiner.

In addition, Applicants respectfully request that the claims of the instant invention currently restricted into Groups I-IV should be examined together because there is no evidence that a serious search burden would be placed on the Examiner if restriction were not required. Applicants respectfully submit that a search with regard to one group of claims would very likely be of relevance with regard to the other groups. Accordingly, a search can be made of the entire application, including all claims, without undue burden on the Examiner.

In view of the foregoing, reconsideration and withdrawal of the restriction is respectfully requested.

A petition for a five month extension of time accompanies this response. In the event any additional fee is due in connection with the present response, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: May 13, 2009

Respectfully submitted,

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